

110TH CONGRESS
1ST SESSION

H. R. 2761

To extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 18, 2007

Mr. CAPUANO (for himself, Mrs. MALONEY of New York, Mr. ACKERMAN, Mr. MEEKS of New York, Mrs. MCCARTHY of New York, Mr. CROWLEY, Mr. ISRAEL, Mr. KING of New York, Mr. GUTIERREZ, Mr. WATT, Mr. SHERMAN, Mr. LYNCH, Mr. SCOTT of Georgia, Mr. AL GREEN of Texas, Mr. CLEAVER, Mr. LINCOLN DAVIS of Tennessee, Mr. SIRES, Mr. MAHONEY of Florida, Mr. MURPHY of Connecticut, Mr. WEXLER, Mr. BOREN, Mr. FRANK of Massachusetts, Mr. HODES, and Mr. SHAYS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To extend the Terrorism Insurance Program of the Department of the Treasury, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Terrorism Risk Insurance Revision and Extension Act of
6 2007”.

1 (b) REFERENCES.—Except as otherwise expressly
2 provided in this Act, wherever in this Act an amendment
3 or repeal is expressed in terms of an amendment to, or
4 repeal of, a section or other provision, the reference shall
5 be considered to be made to a section or other provision
6 of the Terrorism Risk Insurance Act of 2002 (15 U.S.C.
7 6701 note).

8 **SEC. 2. FINDINGS AND PURPOSE.**

9 Section 101 is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (5), by striking “and” at
12 the end;

13 (B) by redesignating paragraph (6) as
14 paragraph (12); and

15 (C) by inserting after paragraph (5) the
16 following new paragraphs:

17 “(6) the United States Government should co-
18 ordinate with insurers to provide financial com-
19 pensation to insured parties for losses from acts of
20 terrorism, contributing to the stabilization of the
21 United States economy in a time of national crisis,
22 and periodically assess the ability of the financial
23 services industry to develop the systems, mecha-
24 nisms, products, and programs necessary to create a
25 viable financial services market for private terrorism

1 risk insurance that will lessen the financial partici-
2 pation of the United States Government;

3 “(7) in addition to a terrorist attack on the
4 United States using conventional means or weapons,
5 there is and continues to be a potential threat of a
6 terrorist attack involving the use of unconventional
7 means or weapons, such as nuclear, biological, chem-
8 ical, or radiological agents;

9 “(8) as nuclear, biological, chemical or radio-
10 logical acts of terrorism (known as NBCR terrorism)
11 present a threat of loss of life, injury, disease and
12 property damage potentially unparalleled in scope
13 and complexity by any prior event, natural or man-
14 made, the Federal Government’s responsibility in
15 providing for and preserving national economic secu-
16 rity calls for a strong Federal role in ensuring finan-
17 cial compensation and economic recovery in the
18 event of such an attack;

19 “(9) a report issued by the Government Ac-
20 countability Office in September 2006 concluded
21 that ‘any purely market-driven expansion of cov-
22 erage’ for NBCR terrorism risk is ‘highly unlikely in
23 the foreseeable future’ and the September 2006 re-
24 port from the President’s Working Group on Finan-
25 cial Markets concluded that reinsurance for NBCR

1 terrorist events is virtually unavailable and that
2 ‘[g]iven the general reluctance of insurance compa-
3 nies to provide coverage for these types of risks,
4 there may be little potential for future market devel-
5 opment’;

6 “(10) group life insurance companies are im-
7 portant financial institutions whose products make
8 life insurance coverage affordable for millions of
9 Americans and often serve as their only life insur-
10 ance benefit;

11 “(11) the group life insurance industry, in the
12 event of a severe act of terrorism, is vulnerable to
13 insolvency because high concentrations of covered
14 employees work in the same locations, because pri-
15 mary life insurers do not exclude conventional and
16 NBCR terrorism risks while most catastrophic rein-
17 surance does exclude such terrorism risks, and be-
18 cause a large-scale loss of life would fall outside of
19 actuarial expectations of death; and”;

20 (2) in subsection (b)—

21 (A) in paragraph (1), by striking “for ter-
22 rorism risk” and inserting the following: “and
23 group life insurance for all types of terrorism
24 risk, including conventional terrorism risk and

1 nuclear, biological, chemical, and radiological
2 terrorism risk”; and

3 (B) in paragraph (2)—

4 (i) by inserting before the period at
5 the end the following: “(unless otherwise
6 preempted by this Act)”; and

7 (ii) by striking the period at the end
8 and inserting “; and”; and

9 (C) by adding at the end the following new
10 paragraph:

11 “(3) provide finite liability limits for terrorism
12 insurance losses for insurers and the United States
13 Government.”.

14 **SEC. 3. 10-YEAR EXTENSION OF PROGRAM.**

15 (a) **TERMINATION DATE.**—Section 108(a) is amend-
16 ed by striking “December 31, 2007” and inserting “De-
17 cember 31, 2017”.

18 (b) **ADDITIONAL PROGRAM YEAR.**—Paragraph (11)
19 of section 102 is amended by adding at the end the fol-
20 lowing new subparagraph:

21 “(G) **ADDITIONAL PROGRAM YEAR.**—The
22 term ‘additional Program Year’ means any ad-
23 ditional one-year period after Program Year 5
24 during which the Program is in effect, which

1 period shall begin on January 1 and end on De-
2 cember 31 of the same calendar year.”.

3 (c) INSURER DEDUCTIBLE.—Section 102(7) is
4 amended—

5 (1) in subparagraph (F), by striking “and” at
6 the end; and

7 (2) in subparagraph (G)—

8 (A) by striking “(F)” and inserting “(G)”;
9 and

10 (B) by redesignating such subparagraph as
11 subparagraph (H); and

12 (3) by inserting after subparagraph (F) the fol-
13 lowing:

14 “(G) for each additional Program Year—

15 “(i) with respect to property and cas-
16 ualty insurance, the value of an insurer’s
17 direct earned premiums over the calendar
18 year immediately preceding such Program
19 Year, multiplied by 20 percent; and”.

20 (d) INSURED LOSS SHARED COMPENSATION.—Sub-
21 section (e) of section 103 is amended—

22 (1) in paragraph (2)(A), by striking “the pe-
23 riod” and all that follows through “2 through 5”
24 and inserting “any additional Program Year”;

25 (2) in paragraph (6)—

1 (A) in subparagraph (D), by striking
2 “and” at the end;

3 (B) in subparagraph (E), by striking the
4 period at the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(F) for each additional Program Year—

7 “(i) for property and casualty insur-
8 ance, the lesser of—

9 “(I) \$27,500,000,000; and

10 “(II) the aggregate amount, for
11 all such insurance, of insured losses
12 during such Program Year; and”; and

13 (3) in paragraph (7), by striking “period” and
14 “periods” each place either such term appears and
15 inserting “Program Year” and “Program Years”,
16 respectively.

17 **SEC. 4. COVERAGE OF DOMESTIC TERRORISM.**

18 Clause (iv) of section 102(1)(A) is amended by strik-
19 ing “acting on behalf of any foreign person or foreign in-
20 terest,”.

21 **SEC. 5. ADJUSTMENT OF PROGRAM TRIGGER.**

22 Section 103(e)(1) is amended—

23 (1) in subparagraph (B), by striking clauses (i)
24 and (ii) and inserting the following new clause:

1 “(i) \$50,000,000, with respect to such
2 insured losses occurring in any additional
3 Program Year; or”; and

4 (2) by redesignating subparagraphs (B) and
5 (C) as subparagraphs (C) and (D), respectively.

6 **SEC. 6. DEFINITIONS.**

7 Section 102 is amended—

8 (1) in paragraph (3)(C), by inserting before the
9 period at the end the following: “; except that for
10 purposes of any proceeding under this subparagraph,
11 there shall be a presumption that any entity which
12 directly or indirectly owns, controls, or has power to
13 vote less than 5 percent of any class of voting secu-
14 rities of another entity does not have control over
15 that entity”;

16 (2) in paragraph (4), by striking “paragraph
17 (5)” and inserting “paragraph (8)”;

18 (3) by redesignating paragraphs (10) through
19 (16) as paragraphs (15) through (21), respectively;

20 (4) by inserting after paragraph (9) the fol-
21 lowing new paragraph:

22 “(14) PREVIOUSLY IMPACTED AREA.—

23 “(A) IN GENERAL.—The term ‘impacted
24 area’ means a geographic area that, after an
25 act of terrorism, the Secretary determines has

1 suffered a substantial and direct economic im-
2 pact as a result of such act of terrorism. In des-
3 ignating such an area the Secretary shall use
4 postal zip codes, census tracts, or such other
5 geographic determinates as the Secretary finds
6 appropriate to provide a clear delineation of the
7 impacted area.

8 “(B) PREVIOUS ACTS OF TERRORISM.—
9 Notwithstanding subparagraph (A), the Sec-
10 retary shall designate as an impacted area any
11 area within the United States that has, during
12 the 15-year period ending upon the date of the
13 enactment of the Terrorism Risk Insurance Re-
14 vision and Extension Act of 2007, been subject
15 to an act of violence that—

16 “(i) would have been an act of ter-
17 rorism for purposes of this Act if this Act
18 had been in effect at the time of such act
19 of violence; and

20 “(ii) resulted in insured losses (as
21 such term is defined in this Act) of at least
22 \$1,000,000,000 at the time of the event.

23 Any such previous acts of violence shall be con-
24 sidered acts of terrorism for purposes of para-
25 graph (11) of this section (relating to insurer

1 deductible) and section 103(e)(1)(C) (relating
2 to program trigger).”;

3 (5) by redesignating paragraph (9) as para-
4 graph (13);

5 (6) by inserting after paragraph (8) the fol-
6 lowing new paragraph:

7 “(12) NBCR TERRORISM.—The term ‘NBCR
8 terrorism’ means an act of terrorism that involves
9 nuclear, biological, chemical, or radiological reac-
10 tions, releases, or contaminations, to the extent any
11 insured losses are caused by any such reactions, re-
12 leases, or contaminations.”;

13 (7) by redesignating paragraphs (5) through
14 (8) as paragraphs (8) through (11), respectively;

15 (8) by inserting after paragraph (4) the fol-
16 lowing new paragraphs:

17 “(6) EXCESS INSURED LOSS.—The term ‘excess
18 insured loss’ means, with respect to a Program
19 Year, any portion of the amount of insured losses
20 during such Program Year that exceeds the cap on
21 annual liability under section 103(e)(2)(A).

22 “(7) GROUP LIFE INSURANCE.—The term
23 ‘group life insurance’ means an insurance contract
24 that provides life insurance coverage, including term
25 life insurance coverage, group universal life insur-

1 ance coverage, group variable universal life insur-
2 ance coverage and accidental death coverage, or a
3 combination thereof, for a number of individuals
4 under a single contract, on the basis of a group se-
5 lection of risks, but does not include ‘Corporate
6 Owned Life Insurance’ or ‘Business Owned Life In-
7 surance,’ each as defined under the Internal Rev-
8 enue Code of 1986, or any similar product.”;

9 (9) by redesignating paragraphs (3) and (4) as
10 paragraphs (4) and (5), respectively; and

11 (10) by inserting after paragraph (2) the fol-
12 lowing new paragraph.

13 “(3) AMOUNT AT RISK.—The term ‘amount at
14 risk’ means, with respect to group life insurance, the
15 death benefit less any cash value.”.

16 **SEC. 7. COVERAGE OF GROUP LIFE INSURANCE.**

17 (a) DEFINITIONS.—Section 102, as amended by the
18 preceding provisions of this Act, is further amended—

19 (1) in paragraph (1)(B)(ii), by inserting “and
20 group life insurance” before “losses”;

21 (2) in paragraph (8) (relating to insured loss),
22 as so redesignated by section 6 of this Act, in the
23 matter preceding subparagraph (A)—

1 (A) by inserting “or group life insurance
2 as limited to the amount at risk,” after “prop-
3 erty and casualty insurance”; and

4 (B) by inserting a comma after “insurer”;
5 (3) in paragraph (9) (relating to insurer), as so
6 redesignated by section 6 of this Act—

7 (A) in subparagraph (A)(i), by inserting “,
8 or group life insurance,” after “excess insur-
9 ance”; and

10 (B) in subparagraph (B), by inserting “or,
11 in the case of group life insurance, that receives
12 premiums,” after “insurance coverage,”;

13 (4) in paragraph (10) (relating to insurer de-
14 ductible), as so redesignated by section 6 of this
15 Act—

16 (A) in subparagraph (G), as added by sec-
17 tion 3(c)(3) of this Act, by adding at the end
18 the following new clause:

19 “(ii) with respect to group life insur-
20 ance, the value of an insurer’s amount at
21 risk for a covered line of insurance over
22 the calendar year immediately preceding
23 such Program Year, multiplied by 0.0351
24 percent;”; and

1 (B) in subparagraph (H), as so redesignig-
2 nated by section 3(c)(2) of this Act—

3 (i) by inserting “for property and cas-
4 ualty insurance, and such portion of the
5 amount at risk for group life insurance,”
6 after “such portion of the direct earned
7 premiums”; and

8 (ii) by striking the period at the end
9 and inserting “and amount at risk;”.

10 (b) SEPARATE RETENTION POOL.—Section
11 103(e)(6) is amended—

12 (1) in subparagraph (D)(ii), by striking “and”
13 at the end; and

14 (2) in subparagraph (F), as added by section
15 3(d)(2)(C) of this Act, by adding at the end the fol-
16 lowing new clause:

17 “(ii) for group life insurance, the less-
18 er of—

19 “(I) \$5,000,000,000; and

20 “(II) the aggregate amount, for
21 all such insurance, of insured losses
22 during such Program Year.”.

23 (c) SEPARATE RECOUPMENT.—Section 103(e)(7) is
24 amended—

25 (1) in subparagraph (A)—

1 (A) in the matter preceding clause (i), by
2 striking “(E)” and inserting “(F)”;

3 (B) in clause (i), by inserting “applicable”
4 before “insurance”;

5 (C) in clause (ii), by striking “all insurers”
6 and inserting “all applicable insurers (pursuant
7 to subparagraph (E))”;

8 (2) in subparagraph (B)—

9 (A) in the heading, by inserting “APPLICA-
10 BLE” before “INSURANCE”;

11 (B) by striking “(E)” and inserting “(F)”;
12 and

13 (C) by inserting “applicable” before “in-
14 surance”;

15 (3) in subparagraph (C), by striking “(E)” and
16 inserting “(F)”;

17 (4) by adding at the end the following new sub-
18 paragraph:

19 “(E) SEPARATE RECOUPMENT.—“The Sec-
20 retary shall provide that—

21 “(i) any recoupment under this para-
22 graph of amounts paid for Federal finan-
23 cial assistance for insured losses for prop-
24 erty and casualty insurance shall be made

1 from an insurer, with respect to its prop-
2 erty and casualty insurance; and

3 “(ii) any recoupment under this para-
4 graph of amounts paid for Federal finan-
5 cial assistance for insured losses for group
6 life insurance shall be made from an in-
7 surer, with respect to its group life insur-
8 ance.”.

9 (d) POLICY SURCHARGE FOR TERRORISM LOSS RISK-
10 SPREADING PREMIUMS.—Section 103(e)(8) is amended—

11 (1) in subparagraph (A)—

12 (A) in the matter preceding clause (i), by
13 striking “Any” and inserting “Subject to sub-
14 paragraph (E), any”;

15 (B) in clause (i), by inserting “, and group
16 life insurance policies,” after “policies”; and

17 (C) by striking clause (iii) and inserting
18 the following new clause:

19 “(iii) be based on—

20 “(I) a percentage of the premium
21 amount charged for property and cas-
22 ualty insurance coverage under the
23 policy; and

24 “(II) a percentage of the amount
25 at risk for covered lines of group life

1 insurance coverage under the policy.”;

2 and

3 (2) in subparagraph (C)—

4 (A) by striking the comma after “an an-
5 nual basis” and all that follows through the end
6 of the subparagraph and inserting a 2-em dash;

7 and

8 (B) by adding at the end the following:

9 “(i) with respect to property and cas-
10 ualty insurance, the amount equal to 3
11 percent of the premium charged under the
12 policy; and

13 “(ii) with respect to group life insur-
14 ance, the amount equal to 0.0053 percent
15 of the amount at risk for covered lines
16 under the policy.”.

17 **SEC. 8. COVERAGE FOR NUCLEAR, BIOLOGICAL, CHEMICAL,**
18 **AND RADIOLOGICAL EVENTS.**

19 (a) CERTIFICATION.—Section 102(1) is amended—

20 (1) in subparagraph (C), by inserting “or as an
21 act of NBCR terrorism” after “act of terrorism”;

22 (2) in subparagraph (D), by inserting “, includ-
23 ing an act of NBCR terrorism,” after “act of ter-
24 rorism”;

1 (3) by redesignating subparagraphs (C) and
2 (D) as subparagraphs (D) and (E), respectively; and
3 (4) by inserting after subparagraph (B) the fol-
4 lowing new subparagraph:

5 “(C) CERTIFICATION OF ACTS OF NBCR
6 TERRORISM.—Upon certification of an act of
7 terrorism, the Secretary, in concurrence with
8 the Secretary of State, and the Attorney Gen-
9 eral of the United States, shall determine
10 whether the act of terrorism meets the defini-
11 tion of NBCR terrorism in this section. If such
12 determination is that the act does meet such
13 definition, the Secretary shall specifically certify
14 such act as an act of NBCR terrorism.”.

15 (b) MANDATORY AVAILABILITY.—Section 103(c) is
16 amended—

17 (1) in paragraph (1)—

18 (A) by striking “property and casualty in-
19 surance policies” and inserting “insurance poli-
20 cies for covered lines”; and

21 (B) by striking “; and” and inserting the
22 following: “, except for losses resulting from an
23 act of NBCR terrorism;”;

24 (2) in paragraph (2)—

1 (A) by striking “property and casualty”
2 and inserting “, for covered lines,”;

3 (B) by striking the period at the end and
4 inserting a semicolon; and

5 (3) by adding after paragraph (2) the following
6 new paragraph:

7 “(3) shall make available, to any person who
8 elects coverage under paragraph (1) for a covered
9 line and notwithstanding any nuclear hazard or pol-
10 lution exclusion in a policy that otherwise would be
11 applicable, coverage for such covered line for losses
12 resulting from NBCR terrorism; and”.

13 (c) INSURER DEDUCTIBLE.—Paragraph (10) of sec-
14 tion 102, as so redesignated by the preceding provisions
15 of this Act, is amended by adding at the end the following
16 new subparagraph:

17 “(I) notwithstanding subparagraphs (A)
18 through (H), in the case of any act of NBCR
19 terrorism, for any additional Program Year—

20 “(i) with respect to property and cas-
21 ualty insurance, the value of an insurer’s
22 direct earned premiums over the calendar
23 year immediately preceding such Program
24 Year, multiplied by 7.5 percent; and

1 “(ii) with respect to group life insur-
2 ance, the value of an insurer’s amount at
3 risk for a covered line of insurance over
4 the calendar year immediately preceding
5 such Program Year, multiplied by 0.0132
6 percent; and”.

7 (d) RATE AND FORM FILINGS.—Section 106(a)(2) is
8 amended—

9 (1) in subparagraph (B), by striking “and” at
10 the end;

11 (2) by redesignating subparagraph (C) as sub-
12 paragraph (D); and

13 (3) by inserting after subparagraph (B) the fol-
14 lowing new subparagraph:

15 “(C) during the period beginning on the
16 date of the enactment of the Terrorism Risk In-
17 surance Revision and Extension Act of 2007
18 and ending on December 31, 2008, rates and
19 forms for property and casualty insurance cov-
20 ered by this title and providing coverage for
21 NBCR terrorism that are filed with any State
22 shall not be subject to prior approval or a wait-
23 ing period under any law of a State that would
24 otherwise be applicable, except that nothing in
25 this title affects the ability of any State to in-

1 validate a rate as excessive, inadequate, or un-
2 fairly discriminatory, and, with respect to
3 forms, where a State has prior approval author-
4 ity, it shall apply to allow subsequent review of
5 such forms; and”.

6 **SEC. 9. INSURED LOSS SHARED COMPENSATION.**

7 (a) **INSURER COPAYMENT; FEDERAL SHARE OF**
8 **COMPENSATION.**—Section 103(e)(1) is amended by strik-
9 ing subparagraph (A) and inserting the following new sub-
10 paragraphs:

11 “(A) **CONVENTIONAL TERRORISM.**—Except
12 as provided in subparagraph (B), the Federal
13 share of compensation under the Program to be
14 paid by the Secretary for insured losses of an
15 insurer during any additional Program Year
16 shall be equal to the sum of—

17 “(i) 85 percent of that portion of the
18 amount of such insured losses that—

19 “(I) exceeds the applicable in-
20 surer deductible required to be paid
21 during such Program Year; and

22 “(II) based upon pro rata deter-
23 minations pursuant to paragraph
24 (2)(B), does not contribute to aggre-
25 gate industry insured losses during

1 such Program Year exceeding
2 \$100,000,000,000; and

3 “(ii) 100 percent of the insured losses
4 of the insurer that, based upon pro rata
5 determinations pursuant to paragraph
6 (2)(B), contributes to aggregate industry
7 insured losses during such Program Year
8 exceeding \$100,000,000,000, up to the
9 limit under paragraph (2)(A).

10 “(B) NBCR TERRORISM.—

11 “(i) AMOUNT OF COMPENSATION.—
12 The Federal share of compensation under
13 the Program to be paid by the Secretary
14 for insured losses of an insurer resulting
15 from NBCR terrorism during any addi-
16 tional Program Year shall be equal to the
17 sum of—

18 “(I) the amount of qualified
19 NBCR losses (as such term is defined
20 in clause (ii)) of the insurer, multi-
21 plied by a percentage based on the ag-
22 gregate industry qualified NBCR
23 losses for the Program Year, which
24 percentage shall be—

1 “(aa) 85 percent of such ag-
2 gregate industry qualified NBCR
3 losses of less than
4 \$10,000,000,000;

5 “(bb) 87.5 percent of such
6 aggregate industry qualified
7 NBCR losses between
8 \$10,000,000,000 and
9 \$20,000,000,000;

10 “(cc) 90 percent of such ag-
11 gregate industry qualified NBCR
12 losses between \$20,000,000,000
13 and \$40,000,000,000;

14 “(dd) 92.5 percent of such
15 aggregate industry qualified
16 NBCR losses of between
17 \$40,000,000,000 and
18 \$60,000,000,000; and

19 “(ee) 95 percent of such ag-
20 gregate industry qualified NBCR
21 losses of more than
22 \$60,000,000,000;

23 and shall be prorated per insurer
24 based on each insurer’s percentage of
25 the aggregate industry qualified

1 NBCR losses for such additional Pro-
2 gram Year; and

3 “(II) 100 percent of the insured
4 losses of the insurer resulting from
5 NBCR terrorism that, based upon pro
6 rata determinations pursuant to para-
7 graph (2)(B), contributes to aggregate
8 industry insured losses during such
9 Program Year exceeding
10 \$100,000,000,000, up to the limit
11 under paragraph (2)(A).

12 “(ii) QUALIFIED NBCR LOSSES.—For
13 purposes of this subparagraph, the term
14 ‘qualified NBCR losses’ means, with re-
15 spect to insured losses of an insurer result-
16 ing from NBCR terrorism during an addi-
17 tional Program Year, that portion of the
18 amount of such insured losses that—

19 “(I) exceeds the applicable in-
20 surer deductible required to be paid
21 during such Program Year; and

22 “(II) based upon pro rata deter-
23 minations pursuant to paragraph
24 (2)(B), does not contribute to aggre-
25 gate industry insured losses during

1 such Program Year exceeding
2 \$100,000,000,000.”.

3 (b) CAP ON ANNUAL LIABILITY; CLAIMS ALLOCA-
4 TIONS.—

5 (1) IN GENERAL.—Section 103(e)(2) is amend-
6 ed—

7 (A) in subparagraph (A)—

8 (i) in the matter preceding clause

9 (i)—

10 (I) by inserting after “State
11 law,” the following: “including any
12 State workers’ compensation or other
13 compulsory insurance law,”; and

14 (II) by striking “aggregate in-
15 sured losses exceed” and inserting
16 “aggregate amount of the Federal
17 share of compensation to be paid to
18 all insurers pursuant to paragraph
19 (1)(A) exceeds”;

20 (ii) in clause (i), by striking “such
21 losses that” and inserting “the aggregate
22 insured losses during such Program Year
23 for which the Federal share”; and

24 (iii) in clause (ii), by striking “that
25 amount that” and inserting “the aggregate

1 insured losses during such Program Year
2 for which the Federal share”; and

3 (B) by adding at the end the following new
4 subparagraph:

5 “(C) CLAIMS ALLOCATIONS.—The Sec-
6 retary shall, by regulation, provide for insurers
7 to allocate claims payments for insured losses
8 under applicable insurance policies in any case
9 described in subparagraph (A). Such regula-
10 tions shall include provisions for payment, for
11 the purpose of addressing emergency needs of
12 applicable persons affected by an act of ter-
13 rorism, of a portion of claims for insured losses
14 promptly upon filing of such claims.”.

15 (2) REGULATIONS.—The Secretary of the
16 Treasury shall issue the regulations referred to in
17 the amendment made by paragraph (1)(B), and to
18 carry out section 103(e)(2)(B) of the Terrorism Risk
19 Insurance Act of 2002, not later than the expiration
20 of the 120-day period beginning upon the date of the
21 enactment of this Act.

22 (c) LIMITATION ON INSURER FINANCIAL RESPONSI-
23 BILITY; NOTIFICATION OF LOSSES.—Section 103(e) is
24 amended—

1 (1) by redesignating paragraphs (4) through
2 (8) (as amended by the preceding provisions of this
3 Act) as paragraphs (5) through (9), respectively;
4 and

5 (2) by striking paragraph (3) and inserting the
6 following new paragraphs:

7 “(3) LIMITATION ON INSURER FINANCIAL RE-
8 SPONSIBILITY.—

9 “(A) LIMITATION.—Notwithstanding any
10 other provision of Federal or State law, includ-
11 ing any State workers’ compensation or other
12 compulsory insurance law, an insurer’s financial
13 responsibility for insured losses from acts of
14 terrorism shall be limited to its applicable in-
15 surer deductible and its applicable quota share
16 of insured losses determined pursuant to the
17 applicable provisions of section 102(10) and
18 paragraph (1)(A) of this subsection, respec-
19 tively, and subject to the requirements of para-
20 graph (2)(B) of this subsection.

21 “(B) FEDERAL REIMBURSEMENT.—Not-
22 withstanding any other provision of Federal or
23 State law, the Secretary shall—

24 “(i) reimburse insurers for any pay-
25 ment of excess insured losses made prior to

1 publication of any notification pursuant to
2 paragraph (4)(A);

3 “(ii) reimburse insurers for any pay-
4 ment of excess insured losses occurring on
5 or after the date of any notification pursu-
6 ant to paragraph (4)(A), but only to the
7 extent that—

8 “(I) such payment is ordered by
9 a court pursuant to subparagraph (C)
10 of this paragraph or is directed by
11 State law, notwithstanding this para-
12 graph, or by Federal law;

13 “(II) such payment is limited to
14 compensating insurers for their pay-
15 ment of excess insured losses and does
16 not include punitive damages, or liti-
17 gation or other costs; and

18 “(III) the insurer has made a
19 good faith effort to defend against
20 any claims for such payment; and

21 “(iii) have the right to intervene in
22 any legal proceedings relating to such
23 claims specified in clause (ii)(III).

24 “(C) FEDERAL COURT JURISDICTION.—

1 “(i) CONDITIONS.—All claims relating
2 to or arising out of an insurer’s financial
3 responsibility for insured losses from acts
4 of terrorism under this section shall be
5 within the original and exclusive jurisdic-
6 tion of the district courts of the United
7 States, in accordance with the procedures
8 established in subparagraph (D), if the
9 Secretary certifies that the following condi-
10 tions have been met, or that there is a rea-
11 sonable likelihood that the following condi-
12 tions may be met:

13 “(I) The aggregate amount of
14 the Federal share of compensation to
15 be paid to all insurers pursuant to
16 paragraph (1)(A) exceeds
17 \$100,000,000,000, pursuant to para-
18 graph (2); and

19 “(II) the insurer has paid its ap-
20 plicable insurer deductible and its pro
21 rata share of insured losses deter-
22 mined pursuant to paragraph (2)(B).

23 “(ii) REMOVAL OF STATE COURT AC-
24 TIONS.—If the Secretary certifies that con-
25 ditions set forth in subclauses (I) and (II)

1 of clause (i) have been met, all pending
2 State court actions that relate to or arise
3 out of an insurer's financial responsibility
4 for insured losses from acts of terrorism
5 under this section shall be removed to a
6 district court of the United States in ac-
7 cordance with subparagraph (D).

8 “(D) VENUE.—For each determination
9 made by the Secretary pursuant to subpara-
10 graph (C)(i), not later than 90 days after the
11 Secretary's determination the Judicial Panel on
12 Multidistrict Litigation shall designate one dis-
13 trict court or, if necessary, multiple district
14 courts of the United States that shall have
15 original and exclusive jurisdiction over all ac-
16 tions for any claim relating to or arising out of
17 an insurers financial responsibility for insured
18 losses from acts of terrorism under this section.

19 “(4) NOTICES REGARDING LOSSES AND AN-
20 NUAL LIABILITY CAP.—

21 “(A) APPROACHING CAP.—If the Secretary
22 determines estimated or actual aggregate Fed-
23 eral compensation to be paid pursuant to para-
24 graph (1) equals or exceeds \$80,000,000,000
25 during any Program Year, the Secretary shall

1 promptly provide notification in accordance with
2 subparagraph (D)—

3 “(i) of such estimated or actual aggregate
4 Federal compensation to be paid;

5 “(ii) of the likelihood that such aggregate
6 Federal compensation to be paid for
7 such Program Year will equal or exceed
8 \$100,000,000,000; and

9 “(iii) that, pursuant to paragraph
10 (2)(A)(ii), insurers are not required to
11 make payments of excess insured losses.

12 “(B) EVENT LIKELY TO CAUSE LOSSES TO
13 EXCEED CAP.—If any act of terrorism occurs
14 that the Secretary determines is likely to cause
15 estimated or actual aggregate Federal com-
16 pensation to be paid pursuant to paragraph (1)
17 to exceed \$100,000,000,000 during any Pro-
18 gram Year, the Secretary shall, not later than
19 10 days after such act, provide notification in
20 accordance with subparagraph (D)—

21 “(i) of such estimated or actual aggregate
22 Federal compensation to be paid; and

23 “(ii) that, pursuant to paragraph
24 (2)(A)(ii), insurers are not required to
25 make payments for excess insured losses.

1 “(C) EXCEEDING OF CAP.—If the Sec-
2 retary determines estimated or actual aggregate
3 Federal compensation to be paid pursuant to
4 paragraph (1) equals or exceeds
5 \$100,000,000,000 during any Program Year—

6 “(i) the Secretary shall promptly pro-
7 vide notification in accordance with sub-
8 paragraph (D)—

9 “(I) of such estimated or actual
10 aggregate Federal compensation to be
11 paid; and

12 “(II) that, pursuant to paragraph
13 (2)(A)(ii), insurers are not required to
14 make payments for excess insured
15 losses unless the Congress provides
16 for payments for excess insured losses
17 pursuant to clause (ii) of this sub-
18 paragraph; and

19 “(ii) the Congress shall determine the
20 procedures for and the source of any pay-
21 ments for such excess insured losses.

22 “(D) PARTIES NOTIFIED.—Notification is
23 provided in accordance with this subparagraph
24 only if notification is provided—

25 “(i) to the Congress, in writing; and

1 “(ii) to insurers, by causing such no-
2 tice to be published in the Federal Reg-
3 ister.

4 “(E) DETERMINATIONS.—The Secretary
5 shall make determinations regarding estimated
6 and actual aggregate Federal compensation to
7 be paid promptly after any act of terrorism as
8 may be necessary to comply with this para-
9 graph.

10 “(F) MANDATORY DISCLOSURE FOR IN-
11 SURANCE CONTRACTS.—All policies for property
12 and casualty insurance and group life insurance
13 shall be deemed to contain a provision to the ef-
14 fect that no insurer that has met its applicable
15 insurer deductible and applicable quota share
16 shall be obligated to pay for any portion of ex-
17 cess insured loss. Notwithstanding the pre-
18 ceding sentence, insurers shall include a dislo-
19 sure in their policies detailing the maximum
20 level of Government assistance and the applica-
21 ble insurer share.”.

22 (d) CONFORMING AMENDMENTS.—The Act is amend-
23 ed—

24 (1) in section 103(e)—

1 (A) in paragraph (7), as so redesignated
2 by subsection (c)(1) of this section, by striking
3 “paragraph (7)” and inserting “paragraph
4 (8)”;

5 (B) in paragraph (8), as so redesignated
6 by subsection (c)(1) of this section, by striking
7 “paragraph (6)” each place such term appears
8 and inserting “paragraph (7)”; and

9 (C) in paragraph (9)(C), as so redesign-
10 nated by subsection (c)(1) of this section, by
11 striking “paragraph (7)(D)” and inserting
12 “paragraph (8)(D)”; and

13 (2) in section 108(c)(1), by striking “paragraph
14 (4), (5), (6), (7), or (8)” and inserting “paragraph
15 (5), (6), (7), (8), or (9)”.

16 **SEC. 10. POST-EVENT RESET FOR PREVIOUSLY IMPACTED**
17 **AREAS.**

18 (a) **INSURER DEDUCTIBLES.**—Paragraph (10) of sec-
19 tion 102, as so redesignated by the preceding provisions
20 of this Act, is amended by adding at the end the following
21 new subparagraph:

22 “(J) if aggregate industry insured losses
23 arising from an act of terrorism in a previously
24 impacted area exceed \$1,000,000,000, the in-
25 surer deductibles otherwise applicable under

1 this paragraph of any insurers that sustain in-
2 sured losses arising from any subsequent act of
3 terrorism in the same previously impacted area
4 shall be reduced for the Program Year in which
5 such subsequent act of terrorism occurred and
6 each Program Year thereafter by 1 percent for
7 each \$1,000,000,000 in aggregate industry in-
8 sured losses as a result of the previous act of
9 terrorism in such previously impacted area, ex-
10 cept that no insurer deductible for any Program
11 Year shall be reduced below 5 percent.”.

12 (b) PROGRAM TRIGGER.—Subparagraph (C) of sec-
13 tion 103(e)(1), as amended by the preceding provisions of
14 this Act and so redesignated by section 5(2) of this Act,
15 is further amended by adding at the end the following new
16 clause:

17 “(ii) in the case of any certified act of
18 terrorism in any previously impacted area,
19 the amount provided under clause (i), as
20 reduced by \$10,000,000 for each
21 \$1,000,000,000 in aggregate industry in-
22 sured losses that were sustained as a result
23 of a previous act of terrorism in the same
24 impacted area, except that in no case may

1 such amount be reduced below the amount
2 specified in section 102(1)(B)(ii).”.

3 **SEC. 11. MANDATORY AVAILABILITY OF LIFE INSURANCE**
4 **THAT DOES NOT PRECLUDE FUTURE LAWFUL**
5 **TRAVEL.**

6 Subsection (c) of section 103, as amended by the pre-
7 ceding provisions of this Act, is further amended by add-
8 ing at the end the following new paragraph:

9 “(4) shall make available, in all of its life insur-
10 ance policies issued after the date of the enactment
11 of the Terrorism Risk Insurance Revision and Ex-
12 tension Act of 2007 under which the insured person
13 is a citizen of the United States or an alien lawfully
14 admitted for permanent residence in the United
15 States, coverage that neither considers past, nor pre-
16 cludes future, lawful foreign travel by the person in-
17 sured, and shall not decline such coverage based on
18 past or future, lawful foreign travel by the person
19 insured or charge a premium for such coverage that
20 is excessive and not based on a good faith actuarial
21 analysis, except that an insurer may decline or, upon
22 inception or renewal of a policy, limit the amount of
23 coverage provided under any life insurance policy
24 based on plans to engage in future lawful foreign
25 travel to occur within 12 months of such inception

1 or renewal of the policy but only if, at time of appli-
2 cation—

3 “(A) such declination is based on, or such
4 limitation applies only with respect to, travel to
5 a foreign destination—

6 “(i) for which the Director of the Cen-
7 ters for Disease Control and Prevention of
8 the Department of Health and Human
9 Services has issued a highest level alert or
10 warning, including a recommendation
11 against non-essential travel, due to a seri-
12 ous health-related condition;

13 “(ii) in which there is an ongoing
14 military conflict involving the armed forces
15 of a sovereign nation other than the nation
16 to which the insured person is traveling; or

17 “(iii)(I) that the insurer has specifi-
18 cally designated in the terms of the life in-
19 surance policy at the inception of the pol-
20 icy or at renewal, as applicable; and

21 “(II) with respect to which the insurer
22 has made a good faith determination
23 that—

24 “(aa) a serious unlawful situation
25 exists which is ongoing; and

1 “(bb) the credibility of informa-
2 tion by which the insurer can verify
3 the death of the insured person is
4 compromised; and

5 “(B) in the case of any limitation of cov-
6 erage, such limitation is specifically stated in
7 the terms of the life insurance policy at the in-
8 ception of the policy or at renewal, as applica-
9 ble.”.

10 **SEC. 12. EXPEDITED RULEMAKING.**

11 Subsection (a) of section 104 is amended—

12 (1) in paragraph (1), by striking “and” at the
13 end;

14 (2) in paragraph (2), by striking the period and
15 inserting “; and”; and

16 (3) by adding at the end the following new
17 paragraph:

18 “(3) during the 90-day period beginning upon
19 the certification of any act of terrorism, to issue
20 such regulations as the Secretary considers nec-
21 essary to carry out this Act without regard to the
22 notice and comment provisions of section 553 of title
23 5, United States Code.”.

1 **SEC. 13. ANALYSIS AND STUDY.**

2 (a) ANALYSIS OF MARKET CONDITIONS.—Section
3 108 is amended by striking subsection (e) and inserting
4 the following:

5 “(e) ANALYSIS OF MARKET CONDITIONS FOR TER-
6 RORISM RISK INSURANCE.—

7 “(1) IN GENERAL.—The President’s Working
8 Group on Financial Markets, in consultation with
9 the NAIC, representatives of the insurance industry,
10 representatives of the securities industry, and rep-
11 resentatives of policyholders, shall perform an anal-
12 ysis regarding the long-term availability and afford-
13 ability of insurance for terrorism risk in the private
14 marketplace, including coverage for—

15 “(A) property and casualty insurance;

16 “(B) group life insurance;

17 “(C) workers’ compensation; and

18 “(D) nuclear, biological, chemical, and ra-
19 diological events.

20 “(2) REPORT.—The President’s Working Group
21 on Financial Markets shall submit three reports to
22 the Committee on Financial Services of the House of
23 Representatives and the Committee on Banking,
24 Housing, and Urban Affairs of the Senate, on its
25 findings pursuant to the analysis conducted under
26 paragraph (1), as follows:

1 “(A) An initial report, which shall be sub-
2 mitted before the expiration of the 36-month
3 period beginning on the date of the enactment
4 of the Terrorism Risk Insurance Revision and
5 Extension Act of 2007;

6 “(B) A second report, which shall be sub-
7 mitted before the expiration of the 72-month
8 period beginning on the date of the enactment
9 of such Act.

10 “(C) A final report, which shall be sub-
11 mitted before the expiration of the 108-month
12 period beginning on the date of the enactment
13 of such Act.”.

14 (b) COMMISSION ON TERRORISM RISK INSURANCE.—
15 Title I is amended by adding at the end the following new
16 section:

17 **“SEC. 109. COMMISSION ON TERRORISM RISK INSURANCE.**

18 “(a) ESTABLISHMENT.—There is hereby established
19 the Commission on Terrorism Risk Insurance (in this sec-
20 tion referred to as the ‘Commission’).

21 “(b) MEMBERSHIP.—

22 “(1) The Commission shall consist of 19 mem-
23 bers, as follows:

24 “(A) The Secretary of the Treasury or the
25 designee of the Secretary.

1 “(B) One member who is a State insur-
2 ance commissioner, designated by the NAIC.

3 “(C) 13 members, who shall be appointed
4 by the President, who shall include—

5 “(i) a representative of group life in-
6 surers;

7 “(ii) a representative of property and
8 casualty insurers with direct written pre-
9 mium of \$1,000,000,000 or less;

10 “(iii) a representative of property and
11 casualty insurers with direct written pre-
12 mium of more than \$1,000,000,000;

13 “(iv) a representative of multiline in-
14 surers;

15 “(v) a representative of independent
16 insurance agents;

17 “(vi) a representative of insurance
18 brokers;

19 “(vii) a policyholder representative;

20 “(viii) a representative of the sur-
21 vivors of the victims of the attacks of Sep-
22 tember 11, 2001;

23 “(ix) a representative of the reinsur-
24 ance industry;

1 “(x) a representative of workers’ com-
2 pensation insurers;

3 “(xi) a representative from the com-
4 mercial mortgage-backed securities indus-
5 try;

6 “(xii) a representative from a nation-
7 ally recognized statistical rating organiza-
8 tion; and

9 “(xiii) a real estate developer.

10 “(D) Four members, who shall serve as li-
11 aisons to the Congress, who shall include two
12 members jointly selected by the Chairman and
13 Ranking Member of the Committee on Finan-
14 cial Services of the House of Representatives
15 and two members jointly selected by the Chair-
16 man and Ranking Member of the Committee on
17 Banking, Housing, and Urban Affairs of the
18 Senate.

19 “(2) SECRETARY.—The Program Director of
20 the Terrorism Risk Insurance Act of the Depart-
21 ment of the Treasury shall serve as Secretary of the
22 Commission. The Secretary of the Commission shall
23 determine the manner in which the Commission
24 shall operate, including funding and staffing.

25 “(c) DUTIES.—

1 “(1) IN GENERAL.—The Commission shall identify and make recommendations regarding—

2 “(A) possible actions to encourage, facilitate, and sustain provision by the private insurance industry in the United States of affordable coverage for losses due to an act or acts of terrorism;

3 “(B) possible actions or mechanisms to sustain or supplement the ability of the insurance industry in the United States to cover losses resulting from acts of terrorism in the event that—

4 “(i) such losses jeopardize the capital and surplus of the insurance industry in the United States as a whole; or

5 “(ii) other consequences from such acts occur, as determined by the Commission, that may significantly affect the ability of the insurance industry in the United States to cover such losses independently; and

6 “(C) significantly reducing the expected Federal role over time in any continuing Federal terrorism risk insurance program.

1 “(2) EVALUATIONS.—In identifying and mak-
2 ing the recommendations required under paragraph
3 (1), the Commission shall specifically evaluate the
4 utility and viability of proposals aimed at improving
5 the availability of insurance against terrorism risk in
6 the private marketplace.

7 “(3) INITIAL MEETING.—The Commission shall
8 hold its first meeting during the 3-month period that
9 begins 15 months after the date of the enactment of
10 this Act.

11 “(4) REPORTS.—

12 “(A) CONTENTS.—The Commission shall
13 submit two reports to the Congress that—

14 “(i) evaluate and make recommenda-
15 tions regarding whether there is a need for
16 a Federal terrorism risk insurance pro-
17 gram;

18 “(ii) if so, include a specific, detailed
19 recommendation for the replacement of the
20 Program under this title; and

21 “(iii) include the identifications, eval-
22 uations, and recommendations required
23 under paragraphs (1) and (2).

24 “(B) TIMING.—The first report required
25 under subparagraph (A) shall be submitted be-

1 fore the expiration of the 60-month period be-
2 ginning on the date of the enactment of the
3 Terrorism Risk Insurance Revision and Exten-
4 sion Act of 2007. The second such report shall
5 be submitted before the expiration of the 96-
6 month period beginning upon such date of en-
7 actment.”.

8 **SEC. 14. APPLICABILITY.**

9 The amendments made by this Act shall apply begin-
10 ning on January 1, 2008. The provisions of the Terrorism
11 Risk Insurance Act of 2002, as in effect on the day before
12 the date of the enactment of this Act, shall apply through
13 the end of December 31, 2007.

○